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Tuesday, 6 November 2012, 10 a.m.
New York

President: Mr. Jeremić ..... (Serbia)

In the absence of the President, Mr. Gaspar Martins (Angola), Vice-President, took the Chair.

The meeting was called to order at 10.15 a.m.

Agenda item 71 (*continued*)

Report of the International Court of Justice

Report of the International Court of Justice (A/67/4)

Mr. Weisleder (Costa Rica) (*spoke in Spanish*): The Costa Rican delegation thanks Judge Peter Tomka, President of the International Court of Justice, for his report on the Court's work (A/67/4) and for his presence here in the Assembly today.

This is an apt occasion to reiterate our country's absolute belief in the rule of law, our respect for the instruments and institutions of international law and our commitment scrupulously to respect and abide by all of their decisions. Costa Rica attaches great importance to the International Court of Justice. In keeping with that respect, we have recognized the Court's compulsory jurisdiction since 1973.

The peaceful settlement of international disputes is one of the principal reasons for being of the United Nations. As the sole international court with global jurisdiction and one of the principal organs of the United Nations, the Court, in its work to settle such disputes, is a fundamental tool for the maintenance of international peace and security. It is therefore the responsibility of the United Nations and its States Members to support the Court in its work. To deliver that support, the United Nations must provide the Court sufficient resources for it to process the cases brought before it effectively and with complete procedural and juridical independence.

We are pleased that the Organization's support and the Court's diligent efforts have succeeded in clearing the accumulated backlog in cases to be heard, and that now that the written phase of processing cases has been concluded we may now move on expeditiously to the oral phase.

Still more important in the cause of strengthening the rule of law and the Court itself is for all States without exception to respect its rulings and provisional measures. Such a categorical, good-faith respect is essential to ensuring the integrity of cases and solidifying the key role of the Court in maintaining justice and peace.

Along those lines, Costa Rica welcomes the fact that the Declaration of the High-level Meeting on the Rule of Law at the National and International Levels (resolution 67/1), held on 24 September, underlined both the importance of the Court and the absolute necessity of abiding by its decisions.

Lastly, I want to congratulate Judges Owada, Tomka and Xue on their re-election, as well as Judge Gaja on his election. We commend the Court for its efficient and transparent work, and we reiterate our full confidence in its continuing efforts to bolster peace and justice in carrying out its duties.

This record contains the text of speeches delivered in English and of the interpretation of speeches delivered in the other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room U-506. Corrections will be issued after the end of the session in a consolidated corrigendum.

Mr. Panin (Russian Federation) (*spoke in Russian*): We would like to thank the President of the International Court of Justice, Mr. Peter Tomka, for his briefing.

The Organization's calendar year began with the holding of the landmark High-level Meeting on the Rule of Law at the National and International Levels, held on 24 September. That was a complex event whose outcome, which garnered conflicting assessments from States, will be discussed for a long time to come. Be that as it may, the International Court of Justice has proved to be one of those rare cases about which States were unanimous during the High-level Meeting in giving positive assessments. In that connection, I cannot fail to say a few words about the significance of the Court, not only as a key body in resolving disputes between States but as a body that plays a special role in strengthening the rule of law in international relations.

As is rightly noted in the report of the Court (A/67/4), all the work of that organ is aimed at promoting the rule of law. Today the Court not only settles land and maritime border disputes between neighbouring States — as it primarily did during the early period of its existence — but its caseload also includes international concerns spanning a range of issues from States' jurisdictional immunity to questions of territorial integrity. In adjudicating such complicated international issues, the Court is creating international law and actively furthering its broader recognition and dissemination.

Today the International Court of Justice's work is in one of the most active phases in its history. It has considered 15 contentious cases and one adviosry procedure. It has produced decisions on some very complex issues, the most interesting of which are the judgements in the case concerning *Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening)*, in which the Court affirmed the extraordinarily important principle of the supremacy of the jurisdictional immunity of sovereign States, and the case concerning *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, in which the prosecute-or-extradite principle was powerfully elaborated.

Noting the steady upward trend in the Court's caseload and the momentum of its proceedings, we welcome the efforts of its leaders aimed at optimizing its legal processes. The simultaneous consideration of cases, the great pace of proceedings in the chambers, the regular updating of practical procedures and working methods, the speedier consideration of incidental cases relating to provisional measures, applications for permission to intervene and other measures — all of that has enabled the Court to speed up its ability to deliver judgements without hindering their quality. That modernization of the chief judicial body of the United Nations also changes the attitude that States have to it. It is evident that in the eyes of States the Court is gradually becoming more modern and is seen as the proper body for settling international disputes.

When it comes to strengthening the rule of law it is precisely such genuinely functioning bodies as the International Court of justice, with its universal recognition and the trust of States, that should be strengthened and supported; we should not try to introduce a proliferation of new, dubious bodies with unclear status and confused mandates. In that connection, we are pleased that in the budget period under review we have been able to resolve various financial and staffing problems for the Court. We believe that the issues of providing additional funding for the Court, modernizing its legal processes and supporting its judges' special status should be settled without delay. For our part, we are prepared to make every effort necessary to achieving that goal.

We are convinced that the International Court of Justice will remain a model of an objective and independent international judiciary whose authoritative opinion on the most complex issues will always help to strengthen international law.

Mrs. Martínez Lievano (Mexico) (*spoke in Spanish*): The delegation of Mexico would like to express its deep appreciation to the International Court of Justice for the hard work accomplished this year. We also thank the Court's President, Judge Peter Tomka, who a few days ago (see A/67/PV.29) presented a report (A/67/4) that gives a clear picture of the disputes currently before the Court and demonstrates its universal nature.

We would also like to congratulate Judge Tomka and Judge Bernardo Sepúlveda-Amor on their respective elections as President and Vice-President of the Court. The election of Judge Sepúlveda-Amor, a distinguished Mexican jurist, makes us proud. Mexico would also like to express its appreciation to the Registrar of the Court, Mr. Philippe Couvreur, for his excellent performance.

In this brief statement, Mexico wishes to highlight the great legal value of the Court's decisions, both

for the parties concerned in the disputes and for the international community as a whole. The Court plays an essential role in the development of international law, particularly in leading a dialogue with other jurisdictional bodies, thus enriching international law and preventing its fragmentation. In that regard, we deem particularly relevant the recent judgements in which the Court cited precedents derived from other tribunals' jurisdiction, such as the International Tribunal for the Law of the Sea and the European and Inter-American Courts of Human Rights.

Our delegation would also like to call on the General Assembly to provide the Court with the means necessary for its optimal performance as the principal judicial organ of the United Nations.

Finally, I would like to recall that the Declaration adopted at the High-level Meeting on the Rule of Law at the National and International Levels in September (resolution 67/1) is a clear demonstration of the international community's commitment to strengthening international law and one that recognizes the important contribution of the International Court of Justice to strengthening the rule of law. In that context, we call on States that have not yet done so to accept the Court's jurisdiction.

Mr. Errázuriz (Chile) (*spoke in Spanish*): Allow me to convey my delegation's greetings to the President of the International Court of Justice, Judge Peter Tomka, who presented a comprehensive report covering the period from 1 August 2011 to 31 July 2012 (A/67/4).

We value the great responsibility of the International Court of Justice and its work as the principal judicial organ of the United Nations. The President's report clearly reflects that tradition and deserves our gratitude. We are members of the international community and we share with it the respect for the Court's institutionality, its mission and its work, which reflects the primacy of international law. We join with those who have highlighted the fundamental task as a consultative body that the Charter of the United Nations has entrusted to the Court, a function that it has discharged with exemplary clarity and commitment, bringing, through its decisions, security and stability to the Organization and to States as whole.

We note in particular the contribution the Court makes to relations between States on the basis of the application of international law and by adding to its effectiveness. The Court is an essential part of the international legal system. States recognize and appreciate its leading role and the assurances it provides to all the members of the international community within its purview.

As the President pointed out, the Court's purview is based on multilateral and bilateral treaties and on States' unilateral declarations, all of it in accordance with the system as laid down in the Rome Statute. The Court's judicial resolution of disputes embodies one of the essential goals of the international legal order concerning the stability of relations between States and guarantees of existing standards. We are convinced that, in the framework of international peace and security, the Court contributes to strengthening relations between States and to establishing an international legal order that respects the law, together with the rule of law and respect for human rights, adapting the fundamental principles of the Charter of the United Nations to the requirements of contemporary life.

We join the General Assembly, as the principal legal organ of the system, in expressing our respect and support for the Court. We trust that the Organization will continue to ensure the Court's autonomy and to provide the necessary human and material resources, as required for its legal duties and important functions.

My country greatly appreciates the dissemination of public information that the Court undertakes with regard to its work and its outreach with regard to its teachings and activities. We hope that resources will be made available to continue in that direction, providing the Court with the means and technological resources for that purpose. We know how much the Court is doing to disseminate information about its work and to support the efforts of those who consult its documents. That effort will surely ensure that international law is enforced. We want to make our contribution to ensuring that will always be the case when it comes to relations among States.

In conclusion, I would like to say that we recognize the valuable work of the Court that Judge Tomka presides over, which aligns itself with the observance of international law as a requirement and sentiment, contributing to its effectiveness and its implementation.

Mr. Tladi (South Africa): Allow me to congratulate Judge Peter Tomka on his election as President of the International Court of Justice, as well as to thank him for his statement made last Thursday (see A/67/PV.29). I also thank the Court for its report (A/67/4). In

addition, I wish to thank all the members of the Court for their work over the reporting period. And I wish to congratulate the new members of the Court, Judges Sebutinde, Gaja and Bhandari, on their first-time election to the Court. I also extend our congratulations to Judges Owada, Tomka and Xue Hanqin on their re-election.

This year, the focus of the United Nations has been on rule-of-law issues. In January, during South Africa's presidency of the Security Council, the Council held a debate at which it adopted a presidential statement on the rule of law (S/PRST/2012/1). Only two weeks ago, the Council also held a debate on the rule of law focused on the relationship between the International Criminal Court and the Security Council (see S/PV.6849). On 24 September, the General Assembly held a High-level Meeting on the Rule of Law at the National and International Levels, at which a Declaration was adopted by heads of State and Government (resolution 67/1).

An important focus of those United Nations rule-of-law-related activities has been the work of the International Court of Justice, the principal judicial organ of the United Nations. South Africa's own participation in the activities has been to highlight the important and critical role that the Court can play in the promotion of the rule of law and in advancing the principles and purposes of the United Nations by providing a forum for the peaceful settlement of disputes. In that regard, the Declaration of the High-level Meeting recognizes the positive contribution of the Court to the adjudication of disputes and to the promotion of the rule of law. Similarly, in its presidential statement, the Security Council emphasized the key role of the Court in adjudicating disputes and the value of its work in the maintenance of international peace and security.

The promotion of the rule of law, which is indispensable for durable peace and security, cannot flourish in a world in which all States have a near limitless right to interpret international law as they deem fit. My delegation has, countless times, stressed the need to avoid auto-interpretation and auto-application of international law. In that regard, the Court can play an important role in being the final arbiter on the content of international law.

As we all know, the Court plays its important role not only in the context of the settlement of disputes in cases brought by States, but also through the provision of advisory opinions. We are therefore pleased that, over the years, the Court has had an opportunity to clarify a number of important legal principles relevant to the work of the United Nations, including through its advisory opinion on the *Legal consequences of the construction of a wall in the occupied Palestinian territory* (see A/ES-10/273) and many other advisory opinions. In that regard, I refer to advisory opinions to stress that South Africa will, as appropriate, support the referral of questions of law to the International Court of Justice for such opinions.

Turning to the current work of the Court during the reporting period, we are pleased to see that the Court was very active and productive, holding three hearings, delivering an advisory opinion and handing down four judgements, including one or two much-anticipated ones. While we do not wish to pronounce ourselves on judgements made by the Court, we would like to make some observations on the importance of some of those cases for the development of a rich body of law.

While the Court's judgement in the case *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)* was restricted to the obligation as contained in article 7 of the Convention against Torture, we note that the formulation of the aut dedere aut judicare principle in the Convention closely follows the trend reflected in The Hague Convention for the Suppression of Unlawful Seizure of Aircraft, namely, that the custodial State shall, if it does not extradite the individual in question, be obliged, without exception, to submit the case to its authority — a trend followed in the more recent articulation of the principle and, indeed, a point that is alluded to in paragraph 90 of the judgement of the Court and more elaborately canvassed in the separate opinion of Judge Yusuf. We are pleased that the Court has clarified the nature of the obligation, which is something that has been the subject of much discussion, by holding that the primary obligation implied by aut dedere principle is the obligation to prosecute, while extradition is an option offered to a State by the Convention.

The Court's judgement in the case *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)* was also insightful in its conclusion that the prohibition against torture was a peremptory norm of international law — ius cogens. While the Court's judgement is not definitive, the Court seems to be suggesting that the fact that the prohibition against torture is ius cogens does not, in and of itself, activate the aut dedere aut judicare obligation.

The question of the legal consequences, or perhaps implication, of ius cogens norms is another question of importance in contemporary international law that affects such important topics as immunities, and even universal jurisdiction. We have noted that the Court, in paragraph 93 of its judgement in the case *Jurisdictional Immunities of the State (Germany v. Italy: Greece intervening)* addresses that question by noting the differences between procedural norms and substantive norms. That view can be contrasted with Judge Cançado Trindade's dissenting opinion, as well as the joint separate opinion of Judges Higgins, Kooijmans and Buergenthal, in the case *Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium)*. Indeed, in the case *Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)*, Judge Cançado Trindade expressed the view that the articulation of a norm as ius cogens had the effect of creating an obligation of result, and not just one of conduct.

Moreover, while the separate opinion of Judge Bennounna and the dissenting opinions of Judges Yusuf and Gaja do not directly address the question of the interaction between ius cogens and other norms of international law, the sentiments expressed therein about the interaction of norms of international law appear more in tune with Judge Higgins, Kooijmans and Buergenthal's separate opinion and Judge Cançado Trindade's separate opinion with respect to ius cogens and its relationship with other norms.

How does the latter approach, which is intuitively attractive, compare with the Court's treatment of the relationship between substantive and procedural norms in the context of ius cogens? We are hopeful that, over the coming years, the various judgements and opinions of the Court will contribute to a thorough examination of those and other issues of importance to international law.

The richness of the judgements of the Court, as well as the individual opinions of the members of the Court, are proof of the contribution, recognized in the high-level Declaration, that the Court has made to the rule of law.

Allow us, finally to congratulate the Court on the renovation of the Great Hall of Justice, which we are sure will continue to serve as the monument of international justice.

Mr. Llorentty Solíz (Plurinational State of Bolivia) (*spoke in Spanish*): On behalf of the Plurinational State of Bolivia, I would like to express our gratitude for the excellent report presented by the President of the International Court of Justice, Judge Peter Tomka (A/67/4), which covers the Court's work from 1 August 2011 to 31 July 2012.

In the International Court of Justice the United Nations has the principal reference for what the international community considers to be universal justice. Its main contribution is its function as a mechanism for the peaceful, fair and legal settlement of disputes — a civilized way of handling disputes between States. Progress in international law has made it possible to reject outdated practices such as the unilateral imposition of measures by strong States on weaker ones, as well as to prohibit the threat or use of force and the conquest of territory by neighbouring States. The International Court of Justice, as the main judicial body of the United Nations, clearly acts as guarantor, protecting States threatened by such contentious practices. In that context, it is important to highlight the United Nations resolutions that crystallize those principles of international law, which in turn form the foundations of the Court's rulings. It is precisely for that reason that Bolivia reiterates its support for the Manila Declaration on the Peaceful Settlement of International Disputes (resolution 37/10, annex), adopted on 15 November 1982. In Section II, paragraph 5, the Declaration states that:

> "Recourse to judicial settlement of legal disputes, particularly referral to the International Court of Justice, should not be considered an unfriendly act between States."

There has been a healthy trend in the conduct of States towards submitting their disputes to the Court's jurisdiction. Members of the international community have gone even further, not only working to resolve differences peacefully but even seeking through peaceful settlements to improve relationships of friendship, political relations and trade links, in the spirit of the Manila Declaration.

Bolivia agrees with the opinion voiced by other delegations during the general debate of this sixty-seventh session to heed the wise call by the President of the Assembly to seek to bring about the settlement of international disputes or situations by peaceful means. The Court's most prominent work

was also highlighted during the recently held High-level Meeting on the Rule of Law at the National and International Levels. The Declaration adopted at the Meeting (resolution 67/1) recognized the positive contribution made by the International Court of Justice and reaffirmed the obligation of States to respect and comply with the judgements and rulings of the Court.

The vast majority of the members of the international community ardently desire that the mechanism for the judicial settlement of disputes — which the International Court of Justice has the responsibility to implement — be universally accepted, with ever more States recognizing its jurisdiction and honouring its fundamental role in maintaining international peace. In that connection, we call on States Members of the United Nations to recognize the Court's jurisdiction and to see its judgements as a reaffirmation of the primacy of international law.

Mr. Sarki (Nigeria): My delegation would first of all like to congratulate Judge Peter Tomka on his well-deserved election as President of the International Court of Justice. We also congratulate the new judges on their elections to the Court.

We welcome the report of the International Court of Justice (A/67/4), which contains a comprehensive presentation on the activities of the Court during the period under review. The dual role of the Court as the principal judicial organ of the United Nations and a court of unique and universal jurisdiction enables it to render impartial decisions in the peaceful settlement of disputes. Over the years, the Court has not only served in advancing international peace and security through its rulings and judicial notices but also contributed immensely to the corpus of international jurisprudence. The Court's judgements and advice invariably have had salutary effects on the maintenance of peace and security in all regions.

In that connection, we note the contribution of the Court towards the delineation of land and maritime borders between Nigeria and the Republic of Cameroon, which contributed significantly to the peaceful resolution of the problem. On 10 October 2002, the Court ruled on the ceding of the Bakassi Peninsula to the Republic of Cameroon after Nigeria submitted to the Court's jurisdiction. That marked a significant turning point in the history of Nigeria. In the period since, Nigeria has not only maintained its utmost respect for the rule of law by implementing the decision in full but has also adhered to its international commitment to respect its neighbour's borders and territorial integrity, in the interest of promoting international peace and security.

Nigeria has always chosen the path of dialogue and negotiations in the settlement of regional and international disputes. We firmly believe that other States should do likewise. Nigeria also faithfully pursued the implementation of the Green Tree Agreement, including the dismantling of all its civil and military structures in territories ceded to Cameroon. It is our hope that vestiges of problems, especially those related to the resettlement of displaced communities and human rights and humanitarian concerns, will be addressed constructively in the coming weeks and months, in order lay to rest the outstanding issues between our two countries.

Despite such successes, we note that things have not always progressed satisfactorily in relation to the Court's activities. Last year, for instance, we witnessed several contentious cases that came before the Court, cutting across all stratums, such as territorial and maritime delimitation, violations of territorial integrity, racial discrimination, violations of human rights and the interpretation and application of international conventions and treaties, among others. In spite of the challenges, we commend the Court's discharge of its responsibilities in the delivery of judgments — six orders and public hearings in five contentious cases during the period were delivered. We also note the initiation of two new cases before the Court and a request for an advisory opinion, which we are confident will be delivered with competence, professionalism and objectivity.

The revitalization of the procedures and working methods of the Court over the years has ensured that it operates with the maximum level of efficiency and transparency. The initiatives and innovations that were introduced by the Court that led to the successful elimination of its backlog of cases and improved the management of both its human and material resources must be commended.

In the face of heightened security challenges, especially those posed by global terrorism, my delegation supports the notion that there is a need for the General Assembly to approve, within its resource capacity, the allocation of additional funds for the Court to establish a security assistant post, so as to strengthen the existing security team while improving other security sectors. In addition, we support the appointment of more legal

officers to handle the increasing number of cases referred to the Court. We note the need to adequately address the myriad administrative requests through proper budgeting.

Nigeria reiterates that the recourse to the Charter provision on the peaceful settlement of disputes and embracing the jurisdictional authority of the International Court of Justice, including referrals to the Court for advisory opinions, are all strategies in strengthening the activities of the United Nations. In that respect, the stagnation in the number of States to have recognized the compulsory jurisdiction of the Court, which remains at 67, with some States having registered reservations thereto, after six decades is not particularly encouraging. An opportunity to garner support for the Court was presented during this year's High-level Meeting on the Rule of Law at the National and International Levels for States that have not made declarations of recognition of the Court to do so.

Most important, in view of the significant role played by the Court in the consolidation of international law, we feel that States that have registered reservations should be called upon to withdraw them. The introduction of voluntary pledges made during the High-level Meeting was aimed at satisfying the need for States to strengthen their resolve to uphold rule-of-law activities at both the national and international levels.

Mrs. Kazragienė (Lithuania): Allow me to begin by thanking Judge Peter Tomka, President of the International Court of Justice, for introducing the Court's annual report (A/67/4) last week. As is evident from the report, the Court made significant efforts during the reporting period in ensuring both the competence and efficiency in its judicial activities. We note with appreciation that, notwithstanding the wide variety of legal topics and the growing factual, legal and procedural complexity, the Court has successfully coped with its workload and delivered four important judgments, as well as handing down an advisory opinion. Moreover, it managed to clear its backlog of cases, thus providing room for hearing new cases in a timely manner.

The greater role of the Court is largely dependent on the members of the international community. One of the primary features of the domain of international law in which the Court operates is that it is driven by the willingness of States, the main actors of the international community, and relies upon their voluntary acceptance of commitments. The same applies to their choice of means for the peaceful settlement of disputes, if the need arises. The Court itself is one such means or, as the President of the Court put it in his introduction, a forum of choice.

We see a great opportunity during the current session of the General Assembly to advance reliance on the Court. The Court's fundamental role in maintaining and strengthening the legitimacy of international relations was manifested during both the High-level Meeting on the Rule of Law and the general debate of the General Assembly, as they focused on the themes pertinent to the purpose and activities of the Court. We hope that that momentum will continue to build and translate into more decisive actions. We think that will be significant in increasing the importance of international justice.

Lithuania is pleased to contribute to the strengthening of the role of the Court. During this year's United Nations treaty event, Lithuania deposited with the Secretary-General its declaration recognizing the jurisdiction of the Court as compulsory under Article 36, paragraph 2, of the Statute of the Court, bringing the total number of States that have done so to 68. Lithuania also deposited instruments of accession to the Optional Protocols to the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations concerning the Compulsory Settlement of Disputes, which were added to the long list of treaties in respect to which Lithuania had already recognized the Court's jurisdiction.

That was a logical step for my country, as it dovetails with the long-standing legal tradition rooted in the Permanent Court of International Justice, the judicial body of the League of Nations. Basing its statehood on the right of the self-determination of its people, the Lithuanian State had no choice but to follow the ideas of the rule of law and the peaceful settlement of disputes in its international relations. International justice provided at least titular security guarantees for the young nation. Not surprisingly, Lithuania was one of the first to accept the compulsory jurisdiction of the Permanent Court when it signed the optional clause of the Permanent Court's Statute in 1922.

The faith of the Lithuanian Government in reliance on international justice was rewarded in full. The Lithuanian State defended its legitimate place among independent nations and successfully stood up for its interests in all three cases before the Permanent Court. The three cases, all related to different aspects of

the territorial rearrangements that followed the First World War, provide much valuable material for both a historical examination of international relations in Europe between the two World Wars and a legal analysis of the Permanent Court's judgments, as well as the development of international law in general.

No less important, the recent recognition of the compulsory jurisdiction of the International Court of Justice was a constitutional requirement, as it follows constitutional principles of Lithuania that necessitate respect for universally recognized principles and norms of international law and contributing to the creation of the international order based on law and justice.

Lithuania accepted the compulsory jurisdiction of the Court September. We invite all States that have not yet done so to do so and thereby join the voluntary system of the compulsory settlement of disputes by peaceful means and in accordance with international law.

Mrs. Niang (Senegal) (*spoke in French*): I would like at the outset to thank the President of the International Court of Justice, Judge Peter Tomka, for his substantive and comprehensive report on the Court's work during the period under consideration (A/67/4). I would also like to thank the entire staff of the Court and to express my delegation's gratitude for the chance to take part yet again in this annual meeting to consider the Court's annual report.

Senegal sees this meeting as an apt occasion to pay homage to the Court's constructive efforts in promoting the ideals of peace and justice that lie at the very foundation of the United Nations. Promoting respect for the rule of law and the peaceful settlements of disputes is essential to creating a fairer and more peaceful world. It is for that reason that, by promoting international justice, developing international law and safeguarding international peace and security, the International Court of Justice has particular responsibility and plays a crucial role in bringing about a peaceful and just world. In that context, I would like to recall the words in Article 1 of the Charter, which state that the settlement of disputes "by peaceful means, and in conformity with the principles of justice and international law" is one of the fundamental goals of the United Nations.

Senegal attaches great importance to promoting justice and the rule of law. We reiterate the trust we place in the Court, as clearly reflected in our recognition of the Court's compulsory jurisdiction, in accordance with Article 36 of its Statute. Moreover, we welcome the large number of cases submitted to the Court, which is proof of the increasing belief around the world in the primacy of the law and the importance States place on the peaceful settlement of disputes. The critically important role of the Court as the principal judicial organ of the United Nations and the forum for the peaceful settlement of disputes is self-evident in the growing trust in the Court by States, which more and more submit to the wisdom of the judges.

In promoting legal solutions to differences and the rule of law in general the Court both contributes to peaceful relations among States and fosters respect for the rule of law at the international level. Furthermore, the Court's rulings and judgments on various situations constitute a body of jurisprudence and legal reasoning that serves to enrich, codify and standardize international law.

For the Court to continue to fulfil its noble task, however, it must be provided with adequate means. The Court has not been spared the shortages endemic to international legal mechanisms. Another major concern that should always receive our full attention is the small number of Member States to have recognized the Court's compulsory jurisdiction. Today, only 66 States, accounting for 34 per cent of our membership, have done so. That situation undermines the legitimacy of the Court and the global application of its rulings. In that context, we commend and support the Secretary-General's decision, outlined in his report A/66/749, of 16 March 2012, to launch an international campaign for global recognition of the Court's compulsory jurisdiction.

To conclude, my delegation would like to underscore its full support for the International Court of Justice and to commend its laudable work in promoting the settlement of disputes between States by legal and peaceful means.

Ms. Prince (United States of America): We would like to thank President Tomka for his leadership as President of the International Court of Justice and for his report on its activities (A/67/4), including on the very important cases on which the Court rendered decisions during the past year. The International Court of Justice is the principal judicial organ of the United Nations. The Preamble of the Charter of the United Nations underscores the determination of its drafters to establish conditions under which justice and respect for the obligations arising from treaties and other sources

of international law can be maintained. That goal lies at the core of the Charter system, in particular of the role of the Court.

The General Assembly itself, in its Declaration of the High-level Meeting on the Rule of Law at the National and International Levels, adopted on 24 September (resolution 67/1), underscored the positive contribution of the International Court of Justice, including in adjudicating disputes among States and the value of its work for the promotion of the rule of law. In addition, the Security Council, in its presidential statement on the rule of law issued earlier this year (S/PRST/2012/1), similarly emphasized the key role of the Court and the value of its work.

It is against that backdrop that we can see the real importance of the renewed willingness of States over the past two decades to turn to the International Court of Justice to resolve their disputes peacefully. As President Tomka has noted, just since 1990, the Court has more than doubled its rate of decisions. The increasing caseload demonstrates the appreciation that States, and the international community more broadly, have for the value of the Court's work. It is against that backdrop that we can see the real importance of the fact that under President Tomka's leadership the Court has been able to clear its backlog of cases and of the effort of the Court to ensure that States will be able to move promptly to the oral stage as soon as they complete their written exchanges. Such efforts contribute immeasurably to the confidence States can have in bringing cases to the Court and, in turn, to the ability of the Court to fulfil its mandate in helping to ensure the peaceful resolution of disputes.

For its part, the United States applauds such efforts. It takes this opportunity to express its pleasure with the successes of the Court in fulfilling its key role in the United Nations system, together with the other Charter organs, in the peaceful resolution of disputes between States. The United States is pleased to add its voice to the many today who have emphasized the success of the Court's work.

The Acting President: We have heard the last speaker in the debate on agenda item 71.

May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 71?

It was so decided.

Agenda item 74 (*continued*)

Report of the International Criminal Court

Note by the Secretary-General (A/67/308)

Report of the Secretary-General (A/67/378)

The Acting President: I now give the floor to the observer of the European Union.

Mr. Marhic (European Union): I have the honour to speak on behalf of the European Union (EU) and its member States. The acceding country Croatia; the candidate countries the former Yugoslav Republic of Macedonia, Montenegro, Iceland and Serbia; the countries of the Stabilization and Association Process and potential candidates Albania and Bosnia and Herzegovina; as well as Georgia, align themselves with this statement.

We thank the International Criminal Court (ICC) for its eighth annual report to the United Nations (see A/67/308), which covers the period from 1 August 2011 to 31 July 2012. During the reporting period, Cape Verde, Guatemala, Maldives, the Philippines and Vanuatu deposited their instruments of ratification or accession to the Rome Statute of the International Criminal Court, bringing the number of States parties to 121. We welcome the new members. We also welcome the announcement made by Haiti in the context of the recently held High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels concerning its intention to ratify the Rome Statute. We praise the decision of the Government of Côte d'Ivoire to commit to ratifying the same treaty following the reform of its constitutional framework.

This year, we celebrate the tenth anniversary of the entry into force of the Rome Statute. Notwithstanding discussions on what can be done better, the Court is an unprecedented success. Earlier this year, the Court issued its first verdict and sentence in the case *The Prosecutor v. Thomas Lubanga Dyilo*. That judgment is a milestone for international criminal justice and constitutes a significant achievement for the Court. It demonstrated that perpetrators cannot act with impunity and it raised awareness of the fact that enlisting and conscripting children under the age of 15 as soldiers and using them to participate actively in combat was a war crime. The case also marked the first occasion for the Court to pronounce itself on principles and procedures to be applied with regard to reparations.

The recent report by the ICC describes the efforts that the Court has made in fulfilling its mission. It also describes the challenges that the ICC is facing. One main challenge continues to be the universality of the Rome Statute. The perpetrators of the most serious crimes must be made accountable for their actions. We therefore need to continue to work tirelessly to make the Rome Statute truly universal, as well as to extend the Agreement on the Privileges and Immunities of the International Criminal Court. The worst crimes should not go unpunished, no matter where or by whom they are committed.

Another fundamental challenge remains the necessity to ensure cooperation with the Court, and in particular how to react to instances of non-cooperation by States that are in violation of their obligations with regard to the ICC. Without State cooperation, the ICC cannot fulfil its mandate. That applies to all States parties to the Rome Statute, as well as when the Security Council refers a situation to the Court in accordance with Chapter VII of the Charter of the United Nations.

Of the 23 individuals against whom the ICC currently has open cases, 12 are currently absconding from justice and some have done so for several years. That stifles the ICC's capacity to deliver justice. Non-cooperation with the Court in respect of the execution of arrest warrants constitutes a violation of international obligations. The EU and its member States underline the importance of consistent action to encourage the full cooperation of States with the ICC, including the prompt execution of arrest warrants.

The primary responsibility for bringing offenders to justice lies with States themselves, in conformity with the relevant provisions of the Rome Statute. Complementarity is a core principle in the Rome Statute; in order to make it operational, all States parties need to prepare and adopt effective national legislation to implement the Rome Statute in their national systems.

The EU and its member States are firm supporters of the ICC. In particular, we are committed to continuing to give high priority to the fight against impunity in the context of our development cooperation and technical assistance to partner countries, within the broader framework of strengthening the rule of law and advancing legal and institutional reforms, not least in post-conflict peacebuilding processes.

We welcome the actions undertaken by States, international organizations and civil society to increase their cooperation with, and assistance to, the ICC. On their part, the European Union and its member States undertake to pursue their efforts in the area of combating impunity, notably by giving the Court full diplomatic support.

Our common goal is clear: to further strengthen the Court to fulfil its mandate. We will continue to encourage the widest possible participation in the Rome Statute. We are dedicated to preserving the integrity of the Rome Statute, to supporting the independence of the Court and to ensuring cooperation with it. We are also committed to fully implementing the principle of complementarity, enshrined in the Rome Statute, by facilitating the effective and efficient interplay between national justice systems and the ICC in the fight against impunity.

Mr. Charles (Trinidad and Tobago): I have the honour to make this intervention on behalf of the 14 member States of the Caribbean Community (CARICOM).

CARICOM is proud of the strides made by the International Criminal Court (ICC) over the past decade as the only permanent international criminal tribunal established to prosecute those accused of committing grave crimes of concern to the international community.

As a region, CARICOM is proud of its role in the establishment of that important institution, which goes back to 1989. At that time, many did not share our vision for a permanent international court to assist in bringing to justice the most notorious of international criminals, as well as to serve as a vehicle to assist in promoting global peace and security. We are humbled that many now share that vision.

The Court is on its way to achieving universality. In a relatively short time, 121 States have become parties to the Rome Statute of the International Criminal Court. That number includes 11 States parties from within the CARICOM region.

Despite its detractors, it is difficult to rebut that the ICC has lived up to its mandate under the Rome Statute. It has become a beacon of hope for all those victims of heinous crimes who are seeking justice. Those include innocent children who call for justice for acts committed by criminals who have shown no regard for international humanitarian law and international human rights law.

CARICOM compliment Judge Sang-Hyun Song, President of the ICC, for his address to the General

Assembly (see A/67/PV.29), in keeping with the Relationship Agreement between the United Nations and the International Criminal Court (A/58/874, annex). That Agreement has benefited the international community in its pursuit of justice for victims of serious crimes, which affront all humankind. We also welcome the report of the Secretary-General on this important subject.

As a result of the symbiotic relationship that exists between the United Nations and the ICC, it is CARICOM's expectation that long before the ICC celebrates its twentieth anniversary, the United Nations would honour fully its obligations under Article 115, paragraph (b) of the Rome Statute to meet the expenses of the Court associated with referrals by the Security Council. In our view, those expenses should not subsist solely on the voluntary contributions of Member States.

Over the past year, the Court witnessed the election of a new Prosecutor in the person of Ms. Fatou Bensouda. Her election has demonstrated the importance that States parties attach to the achievement of gender equality in the election and appointment of qualified individuals to key positions in the ICC. We have full confidence in the ability of Prosecutor Bensouda to carry out her duties with the same degree of professionalism and enthusiasm as her illustrious predecessor, Mr. Luis Moreno-Ocampo.

CARICOM is also very pleased that the Court continues to uphold democratic traditions as far as the election of judges is concerned. That was witnessed during the last session of the Assembly of States Parties with the election of six judges, including Judge Anthony Carmona of Trinidad and Tobago. CARICOM is indeed honoured that to date it has contributed three of its nationals to the bench of the ICC.

During the last year as well, we observed with tremendous appreciation the continued work of the Court to bring to justice several accused persons in numerous situations referred to the institution. Most importantly, CARICOM welcomes the verdict rendered on 14 March 2012, in which the ICC found Mr. Thomas Lubanga Dyilo guilty of the enlistment, conscription and use of children under the age of 15 to participate actively in hostilities in the Democratic Republic of the Congo between September 2002 and August 2003.

We are further satisfied that at each stage of the proceedings, the ICC adhered to all of the tenets associated with the conduct of an impartial trial. In addition to the sentencing of Mr. Lubanga Dyilo, CARICOM also pays tribute to the Court on its landmark decision on reparations for victims. That particular decision is comprehensive in scope, as it also establishes principles relating to reparations.

It is our hope that in the near future the ICC will be in a position to commence the trials of other individuals who are accused of committing crimes under article 5 of the Rome Statute. In order to achieve that objective, however, the relevant entities must honour their legally binding obligations to execute the outstanding arrest warrants issued by the Court and to arrest and surrender to the ICC those individuals who continue to evade justice. We wish to remind those that have failed to honour their obligations that they are contributing to a culture of impunity that does not only prevent the dispensing of justice, but also serves to undermine the rule of law.

Cooperation with the ICC is at the centre of the Rome Statute. It does not fall only to States parties, but also to all States Members of the United Nations, especially as it relates to referrals by the Security Council. Those who argue that the ICC is an obstacle to achieving lasting peace and security in some quarters must be reminded that, consistent with the doctrine of complementarity, which is embedded in the Statute, the jurisdiction of the ICC is invoked only when States are unable or unwilling to prosecute those individuals accused of perpetrating the most severe crimes of concern to the global community. In other words, no individual or State should fear the ICC, because it is a court of last resort. CARICOM is satisfied that in its 10 years of operation the ICC has rosbustly adhered to that cardinal principle.

The Declaration (resolution 67/1) adopted at the High-level Meeting of the General Assembly on the Rule of Law at the National and International Levels, convened at the General Assembly in September, recognized the significant contribution of the ICC to the promotion of international justice and the rule of law. CARICOM is hopeful that that recognition will serve as a catalyst for more States to ratify or accede to the Rome Statute, as well as a means for deepening the relationship between the United Nations and the ICC.

With the imminent cessation of operations of the ad hoc criminal tribunals, the global community must fully embrace the ICC as the only permanent international tribunal dedicated to the prosecution of all individuals, without distinction as to rank or status,

who commit international crimes that have the potential to undermine the political and economic order of States.

CARICOM remains committed to the progressive development of the relationship between the United Nations and the ICC as part of our overall support for the maintenance of an international regime based on respect for the inalienable human rights of individuals, respect for the territorial integrity of States and the need to bring to justice to those who commit serious breaches of the provisions of the Rome Statute which, in our view, represent customary international law.

Ms. Burgstaller (Sweden): I have the honour to speak on behalf of the five Nordic countries — Denmark, Finland, Iceland, Norway and my own country, Sweden.

Let me start by thanking the International Criminal Court (ICC) for its annual report to the United Nations (see A/67/308). I would also like to thank Judge Sang-Hyun Song, President of the ICC, for his comprehensive presentation elaborating on key issues in the report. It is evident from the report and President Song's introduction that the Court's activities continue to increase.

A highlight of the reporting period was the delivery of the ICC's first judgment, in March, in the case *The Prosecutor v. Thomas Lubanga Dyilo*. The verdict was a milestone for international criminal justice and raised awareness about the plight of child soldiers. It must serve as an important deterrent against such crimes. The Court also took a guiding decision on the principles for reparations. The rights of victims to reparations and to participate in the Court's proceedings are unique features of the Rome Statute. Victims' issues are a key issue for the Nordic countries, especially for victims of the scourge of gender-based violence. We encourage States to contribute to the ICC's Trust Fund for Victims. Increased resources for the Fund enable us to make victims' rights real. Furthermore, we should constructively seek justice dividends from the ICC's work that could make a broader positive impact in war-torn countries.

The quest for universal adherence to, and implementation of, the Rome Statute continues. We note with pleasure that during the reporting period Cape Verde, Guatemala, Maldives, the Philippines and Vanuatu became States parties, bringing the total number to 121. The Nordic countries warmly welcome the five new ICC countries and salute their firm commitment to ensuring accountability for the worst crimes known to humankind.

The 10-year anniversary of the ICC was celebrated worldwide, including in the Nordic countries, where its political and popular support remains strong. Although we believe that the Court is a success and that it has lived up to, if not exceeded, the high expectations we had 10 years ago, there are, alas, recurring incidents of States failing to cooperate with the ICC and increased pressure on the resources available to the Court.

It is a cause for concern that the number of outstanding arrest warrants is growing each year. States parties have a legal obligation under the Rome Statute to cooperate fully with the Court. Therefore, we urge all States parties to strengthen their efforts to execute the orders of the Court and to abstain from inviting and receiving suspects who are subject to an arrest warrant by the ICC. All States should also fully comply with their obligations under the Charter of the United Nations and with Security Council resolutions 1593 (2005) and 1970 (2011), which urge States and organizations to fully cooperate with the ICC in the Darfur and Libya situations. We call in particular on the Sudanese and Libyan authorities to comply with their respective legal obligations under those resolutions.

The crisis this summer when four ICC staff members were detained during a mission conducted in Zintan highlights the importance of the legal protection of the Court's staff during travel to situation countries or elsewhere. On that note, we stress the need for all States parties and non-States parties alike that have not yet done so to ratify and fully observe the Agreement on Privileges and Immunities of the International Criminal Court as a matter of priority.

The mandate of the ICC is to hold perpetrators for crimes under the Statute to account by exercising criminal jurisdiction in fair and efficient trials, with victims' interest duly taken into account. Delivering justice is a valuable end in itself, but we must not forget the broader role of the ICC in fostering the principles of the rule of law and respect for universal human rights. Being independent does not mean that the Court stands alone. It should be seen as part of a global system of governance where the United Nations, States and other relevant organizations work together to close the impunity gap for perpetrators under international criminal law.

In that regard, we would also like to highlight the need for cooperation with the Office of the Prosecutor with regard to preliminary examinations.

According to the Rome Statute, the mandate of the ICC is subject to the principle of complementarity. It is States that have the primary responsibility to investigate and prosecute ICC crimes. The ICC is thus a Court of last resort. We must, however, acknowledge that for many States there is a lack of resources and capacity to exercise genuine criminal law proceedings for such complex and large-scale crimes as genocide, crimes against humanity and war crimes. The Nordic countries are prepared to assist those States parties that are willing to enhance their national legal capacities in this field. One concrete example of complementarity engagement is Justice Rapid Response, which is a supporting mechanism for providing States and organizations with criminal justice professionals trained for international investigations who can be rapidly deployed, for instance to commissions of inquiry established by the Human Rights Council.

Let me conclude by pledging that the Nordic countries will remain principal supporters of the International Criminal Court. We are committed to continue working for the Court's effectiveness, professionalism, independence and integrity. Those are prerequisites for the ICC's ability to achieve accountability and meaningful justice for victims.

Prince Zeid Ra'ad Zeid Al-Hussein (Jordan): I have the honour to speak today on behalf of my colleagues from Liechtenstein, Ambassador Christian Wenaweser, and Costa Rica, His Excellency Mr. Bruno Stagno Ugarte, as well as on my own behalf — the three of us being former Presidents of the Assembly of States Parties to the Rome Statute.

This year's report of the International Criminal Court (ICC) (see A/67/308), presented by President Sang-Hyun Song some 10 years after the entry into force of the Rome Statute, gives us a unique opportunity to take stock of where we stand and, in particular, to identify the challenges we face, in particular in connection with the cooperation between the Court and the United Nations. Key among those challenges is certainly making the complementary nature of the ICC understood and acted upon accordingly. It is often emphasized that the Court is an institution of last resort and that national jurisdictions have primacy in dealing with the crimes over which the Court has jurisdiction. The open debate in the Security Council two weeks ago (see S/PV.6849) provides ample evidence of that. But it is nevertheless often not understood that the Rome Statute does in fact create not just another international tribunal with a seat in The Hague, but rather a system of accountability of potentially global reach. That system, which builds on that most basic international consensus that we ensure accountability for the most serious crimes under international law, will work effectively only if all stakeholders play their part. That leads, in particular, the following several points.

First, all States, whether parties to the Statute or not, are called upon to help strengthen national judiciaries in order to enable them to investigate and prosecute in accordance with international standards. Very important parts of the United Nations system and relevant United Nations programmes are already active in that area, although, ideally, there should be just one United Nations department that provides legal and judicial advice and capacity to any Member State seeking it, whether a State party or not.

Secondly, complementarity also entails cooperation with the ICC, in particular where the Court has jurisdiction and has opened an investigation. A special situation in that respect can arise when the State in question is required to cooperate with the Court under Chapter VII of the Charter of the United Nations. In those situations where the Security Council has referred a situation to the Court, the Council must also play its role in ensuring cooperation and an appropriate complementarity dialogue between the Court and the State concerned.

Thirdly, States parties will have to engage in a discussion on some of the difficult questions that have arisen in the context of such situations involving complementarity to show ownership of the accountability system we have created together. It is no longer enough to invoke complementarity; we also have to do our part to make it work in practice. There is a lot of room for us to be more creative than we have been in the past.

Embracing and understanding complementarity is an inevitable step in our progress towards a truly universal accountability system. But it is also the key to understanding that the success and impact of the Court cannot be measured against the number of trials held and convictions handed down, as some of us still do. Nevertheless, trials will of course always be a core function of the Court. The conclusion of the trial against

Thomas Lubanga Dyilo should be a moment for us to try to enhance the efficiency of judicial proceedings. The lessons learned from the trial, combined with those we can draw from the ad hoc tribunals whose work is closing down, offers enormous potential in that respect. Clearly, expediting judicial proceedings is in the interest of due process and the effectiveness of the Court alike. We hope that we will see a dialogue between States and Court officials on the basis of the experience accumulated over the past two decades and, as a result, agreement on a range of measures to improve the proceedings before the Court.

Even the most efficient proceedings do not help if an individual indicted by the Court is not arrested. That situation still prevails with respect to 12 outstanding arrest warrants, including the first ones ever issued by the Court. Cooperation by States is key with respect to every aspect of the work of the Court, but nowhere more important than in the area of arrests. The past years have seen very important advances towards the universality of the Rome Statute, as its membership has reached critical mass and is approaching two-thirds of the membership of the Assembly. Nevertheless, we need to make sure that we deepen the support for the Court, in addition to broadening it. Most important, we must pursue accountability in a consistent and persistent manner. The work before the Assembly gives ample opportunity for doing so, almost on a daily basis. Too often, we squander those opportunities.

More so than other areas, international criminal justice tends to be plagued by controversial discussions about budgetary issues. It is not easy to explain why that is, in particular because international criminal justice is not expensive. For some $150 million per year, we have established a functioning, professional, independent Court that constitutes probably the most significant advance in the global architecture of international organizations in the past few years. But certainly, we must address the criticism, by making the Court more efficient and more accountable for administrative matters. We understand that those discussions are on a good path.

There is one aspect, though, that only the Assembly can address: the financing of investigations mandated by the Security Council. In referring situations to the Court, the Council de facto seizes the opportunity offered by the Rome Statute to use the Court as a substitute for an ad hoc tribunal — which the Council also has the mandate to establish, of course, but at significantly higher costs. In practice, the Council has made referrals to the ICC without putting the financial burden on the United Nations membership, as it rightfully should have, both in accordance with the Rome Statute and the Relationship Agreement between the Court and the United Nations. We hope that that practice will be changed in the near future so that the relationship between the two organizations becomes a real partnership. The States parties should not have to continue bearing the costs of the decisions arising from Security Council decisions.

Let me conclude with some brief remarks on the amendments to the Rome Statute that States parties adopted by consensus at the Kampala Review Conference. The amendments on the crime of aggression in particular are of direct and immediate relevance to the Assembly. The prohibition of the illegal use of force, which is at the core of the Charter of the United Nations, has finally been given its complement in international criminal justice. As early as 2017, the Court can exercise its jurisdiction over the crime of aggression — the worst forms of the illegal use of force, carried out by persons in leadership positions — once 30 States have ratified the Kampala amendments and the Assembly of States Parties has decided to activate the regime. The Kampala consensus is firmly based on, and would not have been possible without, resolution 3314 (XXIX), on the topic of aggression. We hope that members of the Assembly will therefore look favourably at the possibility of ratifying the Kampala amendments and to help the Court achieve what was started in the Hall almost 40 years ago with the adoption of resolution 3314 (XXIX).

Mr. McLay (New Zealand): I have the honour to speak on behalf of Canada, Australia and New Zealand (CANZ). We reiterate our strong support for the International Criminal Court (ICC) and the critical role it plays in ensuring accountability for the most serious crimes of concern to the international community. States of course have the primary responsibility to prosecute such crimes committed on their territory or by their nationals. However, as a Court of last resort, the ICC has jurisdiction to act where domestic courts are unwilling or unable to investigate and prosecute such crimes.

This is the tenth anniversary of the entry into force of the Rome Statute. CANZ commends all bodies of the Court on their contribution to the establishment of the Court as a significant part of the international justice

architecture. The international community can take great pride in the progress achieved since the adoption of the Rome Statute. Today, the Court is a fully functioning institution. Those committed to providing it with political and diplomatic support have grown from the 60 States parties required to bring the Rome Statute into force, to — as Trinidad and Tobago, Sweden and others have reminded us — a community of 121 States. CANZ welcomes the progress towards universal accession to the Rome Statute and the strengthened prospect of justice for victims that such universal accession would represent. We encourage States not yet party to the Statute to join us in taking a strong stand against impunity by acceding to the Statute.

In its tenth year, the delivery of the Court's first judgment, followed by decisions on sentencing and reparations, were milestones for the Court, and we congratulate all those involved. We welcome the fact that the trial of the Court's second case has also been completed. We await the outcome of the Trial Chamber's deliberations. We also welcome the fact that two further cases are in the trial phase and the issuance of two new arrest warrants this year.

CANZ also takes this opportunity to welcome the ICC's new Prosecutor, Ms. Fatou Bensouda. We have every confidence that she will provide outstanding leadership as the Office of the Prosecutor enters the next phase of the Court's development. While applauding the Court's substantial achievements over the past decade, CANZ recognizes that it faces ongoing challenges. The detention of four staff members in June highlighted the risks that the Court staff face in carrying out their functions. As the 2012 report of the International Criminal Court (see A/67/308) emphasizes, the Court must rely heavily on the cooperation of the international community in order to carry out those functions effectively.

The cooperation of States is particularly required in relation to the enforcement of international arrest warrants, the surrender of accused persons, the allocation of adequate resources and the protection of victims and witnesses. CANZ acknowledges that the non-execution of the Court's requests may impede its ability to carry out its mandate.

We therefore call on all States to cooperate fully with the Court and its processes. In particular, we call on both States parties and non-States parties that are subject to obligations under Security Council resolutions to act on the outstanding arrest warrants issued by the ICC. We encourage States parties to arrest indicted persons if, for whatever reason, such persons arrive on their territory.

The effectiveness of the ICC is also dependent on the support of the Security Council. CANZ believes that when the Council makes a referral to the ICC, it should do so with a clear commitment to follow through and to ensure that the Court receives all the necessary support. We encourage the Council to consider how it could better support the work of the Court.

It is clear that the ICC has a hugely valuable role to play on behalf of the international community in its efforts to deter the most serious crimes and to ensure accountability for such crimes. Canada, Australia and New Zealand remain deeply committed to providing the Court with unwavering support. We look forward to working with all States parties to advance our common cause of ensuring that the perpetrators of the most serious crimes of international concern are truly held to account.

Mr. Pírez Pérez (Cuba) (*spoke in Spanish*): The delegation of Cuba takes note the report of the International Criminal Court contained in the note by the Secretary-General (A/67/308) and wishes to reiterate its commitment to fighting impunity for crimes that affect the international community.

The events of recent years are irrefutable proof of the lack of independence of the International Criminal Court largely as a result of the provisions of article 16 of the Rome Statute and the broad and unfair powers granted to the Security Council with regard to the Court's work. Besides distorting the basis of the Court's jurisdiction, that violates the principle of the independence of jurisdictional bodies and of transparency and impartiality in the administration of justice.

The referrals to the Court by the Security Council, in particular those of heads of State in office, affirm the negative trend that our country has condemned on various occasions. Such referrals by the Security Council are a constant violation of international law and are an attack on developing countries in the name of fighting impunity. For that reason, Cuba reiterates its position in favour of establishing an impartial, non-selective, effective and fair international criminal jurisdiction that complements national justice systems and that is truly independent, and therefore free from

subordination to political interests that may distort its essence.

Issues related to such matters were not settled by the outcomes of the Review Conference of the Rome Statute, held in Kampala from 31 May to 11 June 2010. As a body of international criminal jurisdiction, the Court remains subject to the Security Council's illegal, anti-democratic and outrageous decisions, which are contrary to international law. As a result of the behaviour of some of its permanent members, the Council continues to provide complete impunity to the real perpetrators of crimes and massacres of concern to the international community.

It is regrettable that Security Council resolutions provide that crimes committed by the forces of Powers that are Council members and that are not party to the Rome Statute remain beyond investigation. Such references are offensive to the international community. They demonstrate the political double standards with which that organ operates and ignore the principles by which the International Criminal Court should function.

The delegation of Cuba reiterates that the activities of the International Criminal Court cannot disregard international treaties and the principles of international law. The Court must respect the principle of law regarding the consent of a State to be bound by a treaty, enshrined in article 11 of the Vienna Convention on the Law of Treaties, of 23 May 1969.

Cuba wishes to reiterate its serious concern about the precedent being established by the Court's decisions to initiate criminal trials against nationals of States that are not party to the Rome Statute and that have not even accepted its jurisdiction, in accordance with article 12 of the Convention. The jurisdiction of the International Criminal Court must remain independent of the political bodies of the United Nations and must always operate in a complementary way to national criminal jurisdictions.

The people of Cuba have suffered the most diverse forms of aggression for 50 years. The harassment and aggressiveness of the Government of the United States have injured our killed thousands of our country's people. Hundreds of families have lost their children, parents and siblings, and untold economic and financial assets.

However, the definition of the crime of aggression adopted at the Kampala Conference by no means takes into account every aspect that I have mentioned. The crime of aggression should be broadly defined in such a way that it covers all forms of aggression that are manifested in relations between States, which in no way are limited to the use of armed force but equally affect the sovereignty, territorial integrity or political independence of States.

Our country reaffirms its readiness to fight impunity. We remain committed to international criminal justice, to adhering to the principles of transparency, independence and impartiality, and to fully implementing and respecting international law.

Mr. Sul Kyung-hoon (Republic of Korea): At the outset, my delegation would like to express its sincere appreciation to the President of the International Criminal Court (ICC), The Honourable Judge Sang-Hyun Song, for his comprehensive report on the activities of the Court in the past year (see A/67/308). In particular, my delegation highly commends the fact that the joint effort of the Presidency, the Chambers, the Office of the Prosecutor and the Registry has firmly laid solid foundations for the effective functioning of the Court.

We warmly welcome the notable achievements of the Court in its involvement with several situations in countries in Africa. Among other things, we take particular note of the fact that the Court has succeeded in reaching a historic decision in the case of *The Prosecutor v. Thomas Lubanga Dyilo* this year. It was the first judgment that included a final order and sentence, as well as reparations for the victims. We believe that the case effectively shows that the ICC is now firmly established to ensure justice for heinous crimes.

We may recall that, during our debate over the draft of the Rome Statute, some of us took a rather skeptical stance towards the establishment of a permanent court to pursue international criminal justice. Since its entry into force, in 2002, however, the number of States parties to the Rome Statute has steadily grown to 121. During the past year, five new members joined as States parties. We hope that the momentum towards universality will continue in the forthcoming years.

It is also worthwhile to note that the ICC has provided substantial technical assistance to other tribunals, including the Special Court for Sierra Leone and the Special Tribunal for Lebanon. Such contributions not only help to ensure the effective functioning of those

tribunals, but also indicate the ICC's improved capacity to become a hub for the international justice system.

The International Criminal Court was established to end impunity against the gravest crimes, such as genocide, crimes against humanity, war crimes and the crime of aggression. The effective functioning of the Court will greatly contribute to preventing those heinous crimes, thus laying the foundation for sustainable peace.

Despite the Court's remarkable achievements and its constructive role in strengthening the tribunal system, there is still a lot more to do to fulfil its mandate, which will not be achieved by the efforts of the ICC alone. In that context, my delegation welcomes the increasing cooperation with the United Nations, as described in part IV of the ICC report. We hope that that cooperative relationship will be further strengthened.

Without a doubt, it will be critical for the Court to garner firm support and cooperation from all States Members of the United Nations. Without their full cooperation, the ICC would be unable, inter alia, to execute outstanding arrest warrants for perpetrators or conduct thorough investigations.

At the same time, the Court's effective functioning will be in the interest of the entire membership of the United Nations, as it plays an instrumental role in upholding the rule of law, which is one of the main principles underpinning the United Nations. In that respect, my delegation wishes to reaffirm its full support for the effective and efficient operation of the Court.

Mr. Stuerchler Gonzenbach (Switzerland) (*spoke in French*): My delegation would first like to thank President Sang-Hyun Song for introducing the eighth annual report (see A/67/308) of the International Criminal Court (ICC). We also wish to express our appreciation to all of the staff members of the Court for their work and daily efforts in fulfilling their tasks, which continue to grow and recently resulted in the Court's first judgment.

Not only must the Court work tirelessly to advance the vision of the Rome Statute, but as Members of the United Nations we must do the same. As my delegation argued during the Security Council's open debate on peace and security (S/PV.6849 (Resumption 1)) of 17 October, the International Criminal Court and the United Nations have mutually reinforcing, rather than conflicting, mandates.

Recently, the Government of Mali expressed its hope that the Security Council would request a possible international military force to support efforts to bring to justice perpetrators of serious crimes, especially those likely to be prosecuted before the ICC. That will require us to do everything possible in order to maximize synergies between the two institutions. Instead of understanding peace and justice as two separate things, we must see them as two sides of the same coin.

Peace should not, and cannot, be achieved at the expense of justice. Switzerland continues to believe that the situation in the Syrian Arabic Republic should be referred to the Court's jurisdiction. Crimes committed in Syria, irrespective of by whom, must not go unpunished. We note that a growing number of Member States support our initiative to address a letter to the Security Council on Syria. We encourage Member States that have not yet done so to join in our effort.

A referral to the Court is necessary not only because of the grave crimes committed in Syria; it would also clearly demonstrate the Council's commitment to the fight against impunity. In order to enhance the deterrent effect of international criminal justice, the Council should adopt a consistent referral policy and determinedly follow up on referrals. A decision by the Security Council to refer a situation to the Court should not signal the end of the Council's commitment to the fight against impunity but, rather, the beginning.

I have two additional points to make. First, the United Nations should consider funding for the Court for referrals, as provided for in the Relationship Agreement between the United Nations and the ICC. Secondly, it should be noted that the Rome Statute does not provide for exceptional situations, such as referrals involving nationals from non-State parties.

With respect to the broader relationship between the United Nations and the Court, my delegation welcomes the report (A/67/378/Add.1) of the Secretary-General on the implementation of article 3 of the Relationship Agreement, in which he expresses his determination to limit to absolutely essential contacts the contact of United Nations officials with persons who are the subject of arrest warrants. That policy is important in strengthening the credibility of both the United Nations and the Court in the fight against impunity.

The Court should be able to count on our full support here at the United Nations as well as in our countries. Cooperation by States is fundamental. In that respect, we regret that the high number of outstanding arrest warrants overshadows the many positive examples of cooperation. We urge all States to increase their efforts to bring suspects to justice. The International Criminal Court must also be able to count on effective national implementation legislation in each State party. The complementarity provided for in the Rome Statute will be effective only if States equip themselves with the capacity to prosecute before their national authorities perpetrators of crimes covered by the ICC.

Switzerland recently ratified the Agreement on the Privileges and Immunities of the International Criminal Court and is currently preparing to ratify the Kampala amendments to the Rome Statute.

We commend the prompt ratifications of Liechtenstein, San Marino and Samoa. We hope that the Court's jurisdiction over the crime of aggression will be activated as early as 2017. The consensus reached in Kampala was a historic one. We must now work to give it effect as soon as possible. Switzerland also congratulates Grenada, Tunisia, the Philippines, Maldives, Cape Verde, Vanuatu and Guatemala on their ratifications of the Rome Statute in the past two years, thereby bringing the number of States parties to 121 — almost two thirds of the United Nations membership.

With a view to the upcoming Assembly of States Parties to the Rome Statute, my delegation would like to emphasize that our commitment to the Court and its mission is not only purely political; it can also be gauged by our financial support.

Finally, at the recent High-level Meeting on the Rule of Law at the National and International Levels (A/67/PV.3), Heads of State and Government from all regions of the world declared by consensus:

> "We recognize the role of the International Criminal Court in a multilateral system that aims to end impunity and establish the rule of law." (*resolution 67/1, para. 23*)

We all represent the multilateral system on which the Court depends. We all benefit from a strong and effective Court. Therefore, we should all do our utmost to support this valuable institution.

Mrs. Miculescu (Romania): I would like to begin by thanking the International Criminal Court for all its hard work, as comprehensively reflected in its eighth annual report (A/67/308), submitted to the General Assembly in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court (ICC).

The report reveals the significant progress that has marked this tenth anniversary year of activity of the ICC, which is illustrated, among other important developments, by the first verdict and sentence delivered by the Court, in the case of *The Prosecutor v. Thomas Lubanga Dyilo*, and by the completion of the trial in a second case, *The Prosecutor v. Germain Katanga and Mathieu Ngudjolo Chui*. This also proves that the International Criminal Court has become not only a community of States or ideals, but a fully functional institution.

However, despite the ICC's indisputable achievements, this anniversary should also serve as an opportunity for ongoing reflection on finding the best ways to face and overcome the challenges ahead and efficiently combat impunity related to the most serious crimes under international law. We believe that the assessment should take into account, among other aspects, best practices and lessons learned from the experiences related to the activities of the international ad hoc tribunals and special courts. In that respect, we look forward to the debates of the forthcoming Assembly of States Parties to the Rome Statute of the ICC, in The Hague, which represents an excellent opportunity for a fruitful exchange of views on the topic.

We would like to welcome the States — Cape Verde, Guatemala, Maldives, the Philippines and Vanuatu — that have become party to the Rome Statute during the reporting year. The number of States parties to this essential treaty has grown significantly to 121. However, despite the growing membership of the Rome Statue, we firmly believe that the quest for universality should continue, and in that respect we encourage all States to become party to the Rome Statute.

It is our belief that strengthening the ICC by achieving universality is the most powerful preventive approach to compliance with the most important norms of international law, and will reduce the risk of impunity. Given its capacity as former Vice-President of the Assembly of States Parties to the Rome Statute and current facilitator on the universality and full implementation of the Statute, Romania remains fully

committed to promoting the universality of the ICC among States. We can be counted on.

The report of the Court also illustrates the essential part that States continue to play in so many respects and their major role in helping the Court to fulfil its mandate. Full and rapid cooperation with the Court, including by execution of arrest warrants, remains crucial for the effectiveness of the ICC Statute. The adoption of adequate national legislation is critical to an effective fight against impunity. The consistent financial commitment of the States is also needed in order to ensure the Court's optimal functioning, while consistent public and diplomatic support for its activity strengthens its position.

Let me conclude by reiterating Romania's full support to the International Criminal Court and by endorsing the conclusion of the report on the ICC's need for the strong, consistent and ongoing support of States and the international community in order to fulfil its mandate.

Ms. Millicay (Argentina) (*spoke in Spanish*): Argentina acknowledges and thanks the President of the International Criminal Court (ICC), Justice Sang-Hyun Song, for introducing the report of the Court to the General Assembly (A/67/308).

The Rome Statute and the International Criminal Court are among the most notable achievements of multilateral diplomacy, and their contribution to the fight against impunity for crimes against humanity, genocide and war crimes is evident. A little more than a decade after the adoption of the Rome Statute, the Court is a fully functioning permanent international criminal tribunal.

This year finds the Rome Statute and the ICC much stronger. To date, 121 States have become party to the Statute. In that respect, I would like to welcome Guatemala. Another positive development is the ratification of the amendments to the Rome Statute by Liechtenstein and Samoa.

Regarding the amendments to the Rome Statute, we note that the modification of article 8 added certain crimes to the war crimes committed in the context of armed conflicts of a non-international character. Such amendments entail a step forward in the fight against impunity regarding violations of international humanitarian law.

However, it was the amendment on the crime of aggression that determined the historic significance of the 2010 Kampala Review Conference. With the definition of the crime of and the conditions necessary for the Court to exercise its jurisdiction, we fulfilled the mandate of the Rome Statute with regard to the crime of aggression. The Court will be able to exercise its jurisdiction over the crime of aggression one year after the ratification or acceptance of the amendment by 30 States parties. Once they have done so, the Court's jurisdiction will be activated starting in 2017, in accordance with the amendment.

States parties must commit to ratifying the amendments adopted in Kampala as soon as possible. Argentina is actively working on that process internally, with a view to ratifying the amendments as soon as possible. We are pleased that other States parties are making similar efforts.

This year marks the tenth anniversary of the entry into force of the Statute, and hence the establishment of the International Criminal Court. The Court is today a mature permanent tribunal and the centre of the criminal justice system of the international community. On the occasion of the tenth anniversary, we should like to pay tribute to the negotiators of the Rome Statute from all countries for having made the major contribution to the rule of law that is the International Criminal Court; to the first Prosecutor, Mr. Luis Moreno-Ocampo; and to the current and past judges for their courage and commitment to the fight against impunity. On this tenth anniversary, the international community must recognize the value of the Court and take stock of the ways in which States Members of the United Nations can improve their participation.

Since the Rome Statute entered into force, the need for accountability for crimes under the Statute's jurisdiction has been incorporated in a tangible manner into the work of the United Nations. The Security Council has also incorporated the ICC in its considerations on concrete situations. All this has strengthened the fight against impunity. At the same time, some challenges remain.

Mutual cooperation between the United Nations and the Court is crucial, with full respect for the Court's judicial independence. The question of non-essential contacts with persons for whom the Court has issued arrest warrants should be part of the cooperation between the Court and the United Nations provided for in the Relationship Agreement. But it is

cooperation on the part of States that is fundamental to the Court's ability to fully comply with its mandate. A permanent international justice system of necessity requires cooperation on the part of all States Members of the United Nations. Every Member State, whether it is party to the Rome Statute or not, must cooperate with the Court, and that obligation is particularly relevant with regard to arrest warrants.

Regarding referrals made by the Security Council, Argentina believes that the Council cannot merely take note of the reports of the Prosecutor or the Court without following up on compliance with the obligation to cooperate with the Court or on situations on the ground, such as the detention of ICC staff some months ago. Argentina is convinced that establishing some kind of follow-up mechanism for situations referred to the Court would substantially contribute to the Council's responsible collaboration with it.

Other issues of concern to my delegation are, first, the clause that, as in the two referrals that have already been made, seeks to exempt nationals of States that are not party to the Rome Statute from the jurisdiction of the Court for acts or omissions related to operations established or authorized by the Security Council. This could allow the action of a political entity to weaken the Court's ability to render independent and impartial justice by seeking to create an exception not provided for in the Rome Statute. This could affect the credibility of the Security Council and of the Court itself.

The other issue that concerns us, and that was also raised by the two referrals, could have a serious effect on the Court. By establishing that the expenses derived from referrals will be defrayed not by the United Nations but by the States parties to the Rome Statute, the Council is contravening article 115 (b) of the Rome Statute and article 13 of the Relationship Agreement. With an increasing number of cases, pressure on the resources available to the Court has grown; in practical terms, failure to address the financing of referrals could threaten the viability of the Court over the long term.

Argentina wishes to emphasize that the fight against impunity is a goal shared by the States parties to the Rome Statute and the United Nations. But that objective must be accompanied by a commitment to providing the Court with the means necessary to fulfil its mandate. Such commitment is not foreign to the United Nations, as it has been addressed with regard to the ad hoc tribunals established by the Security Council. We must now address it with regard to the International Criminal Court. Inaction regarding the financial resources to be provided by the United Nations under article 115 of the Statute would only have a negative effect on the current cases before the Court and on action taken proprio motu by the Prosecutor.

This year, which marks the tenth anniversary of the International Criminal Court, Argentina would like to reiterate that the Court represents an outstanding contribution to the fight against impunity. I would recall, as the preamble of the Kampala Declaration states,

> "the noble mission and the role of the International Criminal Court in a multilateral system that aims to end impunity, establish the rule of law, promote and encourage respect for human rights and achieve sustainable peace, in accordance with international law and the purposes and principles of the Charter of the United Nations".

Once again, I reiterate Argentina's firm commitment to the International Criminal Court.

Mr. Kodama (Japan): I would first like to thank President Sang-Hyun Song for his comprehensive and in-depth report (A/67/308) on the invaluable work of the International Criminal Court (ICC). My delegation would like to express its appreciation for his able leadership of the Court.

Japan attaches great importance to the central role of the ICC in ending impunity and enhancing the rule of law at the international level. That role is closely linked to the maintenance of international peace and security through its efforts to achieve justice and prevent heinous crimes and other grave violations of international humanitarian and human rights law. We should recall that there is now a serious call for a referral of the situation in Syria to the ICC.

This year, which marks the tenth anniversary of the entry into force of the Rome Statute, the ICC has made significant progress. In March, it issued the first judgment in the Lubanga case, in which a warlord accused of recruiting and using child soldiers was convicted and sentenced. Japan welcomes this significant step towards a fully operational international criminal justice system and the development of international criminal law.

In the past 10 years, the ICC's credibility has increased around the world. As noted in the President's report, the number of States parties to the Rome

Statute grew from 115 to 121 during the reporting period. Japan would particularly like to extend a warm welcome to the Republic of Vanuatu, which became the eighteenth Asia-Pacific member of the ICC at the end of 2011. Japan reaffirms its commitment to continuing to encourage those Asia-Pacific States that have not yet done so to ratify or accede to the Statute by offering its assistance in developing legal systems and human resources.

While commending the Court's invaluable achievements, my delegation notes that the past 10 years have left us with some challenges that we may have to tackle over the next decade. One of the major challenges facing the ICC is how to gain States' cooperation in fulfilling the mandate given it by the Rome Statute. Effective implementation of the Statute can be achieved only on the basis of full cooperation by States. Japan calls on all States parties to cooperate fully with the ICC in accordance with their obligation under the Rome Statute. In that regard, I would like to express our sincere appreciation to Ambassador Tiina Intelmann, President of the Assembly of States Parties to the Rome Statute, for her tireless efforts in addressing this issue.

In cases where situations in a non-State party are referred to the Court by Security Council resolutions, cooperation between the Court and the Council is crucial. In that connection, we recall the ICC's experience in the cases of Darfur and Libya. Lack of cooperation can not only result in a failure to indict perpetrators of serious crimes, but also undermine the Court's credibility by betraying the expectations of the victims and the international community. Japan also expects dialogue and cooperation between the Court and the Security Council, including on the financial implications of the Council's referrals, to deepen.

Another element I want to highlight is the efficiency of the Court. The fact that its judicial independence is sacrosanct does not render the Court immune to investigation of its management. We must address this issue with a view to striking a good balance between the need for strict financial discipline and the provision for procedural legitimacy that a criminal institution requires. In that regard, Japan welcomes the fact that States parties are engaged in constructive discussions on the budget in preparation for the coming Assembly of States Parties, and as the leading contributor would like to continue to assist the Court in its efforts to improve its management.

Finally, Japan hopes that the ICC will continue its work in the fight against impunity and further enhance its credibility. Japan is determined to continue its support of the ICC and to contribute to the maintenance of international peace and security.

Mr. Silva (Brazil): I join others in thanking the President of the International Criminal Court (ICC), Judge Sang-Hyun Song, for his address and presentation of the eighth report of the Court to the General Assembly (A/67/308). I commend him and the other judges of the Court on their decisive role in contributing to the rule of law and to the development of international criminal law.

Brazil remains steadfast in its commitment to the Rome Statute and to the cause of justice it promotes by establishing the first permanent, treaty-based court to try individuals accused of having committed the most serious crimes of international concern. On the independence of such an important judicial institution lies the foundation of its legitimacy in bringing accused persons to justice, with fairness and with full respect for their rights.

Brazil believes that the values enshrined in the Rome Statute are truly universal in nature, and we have always been staunch supporters of the Court's universality. In that regard, we note with satisfaction that, during the period covered by the report, Cape Verde, a member of the Community of Portuguese-speaking Countries, Guatemala, the Philippines and Vanuatu deposited instruments of ratification or accession, bringing the total number of States parties to the Rome Statute to 121. We warmly welcome all of them, and we hope that more States, of all sizes and on all continents, will ratify the Rome Statute in the near future. In South America, as is well known, all countries are parties to the ICC and strong supporters of the Court's contribution to the cause of international justice.

In 2012, we celebrate the tenth anniversary of the entry into force of the Rome Statute. Earlier this year, on 11 June, the Ministers of Foreign Affairs of the Union of South American Nations (UNASUR) adopted a special declaration on the tenth anniversary of the ICC, underscoring the great importance that the countries of the region attach to the Court. UNASUR countries also highlighted the success of and their active participation in the first Review Conference of the Rome Statute, which took place in Kampala in 2010, and adopted by consensus the amendments related to

the crime of aggression and to the inclusion of the use of certain means as war crimes. The activation of the Kampala amendments in 2017 will represent a major contribution to completing the international criminal justice system adopted in Rome in 1998.

I should also like to highlight that the Organization of American States also adopted a resolution on 4 June, renewing the appeal to its member States that are not yet parties to the ICC to ratify or accede to the Rome Statute. The resolution also sent a strong message of political support to the Court.

During the reporting period, the Court issued its first judgment, in the case of *The Prosecutor v. Thomas Lubanga Dyilo*, in March. That represents an important step for the victims of the crimes and sends a message of hope to all those who seek accountability for the most serious crimes of international concern. The period covered by the report also shows that the Court is seized of seven open situations. The fact that there are currently outstanding requests for arrest and surrender issued by the Court against 12 individuals reminds us of the crucial importance of cooperation, which involves States parties and non-parties to the Statute, as well as international, regional and subregional organizations.

Brazil attaches particular importance to efforts aimed at reinforcing rule-of-law activities that focus on prevention and that support the domestic capacity of States to prosecute serious crimes. States have a sovereign responsibility to deliver justice and promote law enforcement in an environment of strong national institutions. They must be supported in their efforts so that the Court can function as a last resort.

The next Assembly of States Parties will hold a thematic debate under the rubric "Tenth anniversary of the entry into force of the Rome Statute: the challenges ahead". It will certainly benefit from the insights and comments made during a very interesting and important debate, held a few weeks ago in the Security Council, on peace and justice, with a special focus on the role of the International Criminal Court, convened by the Guatemalan presidency of the Security Council (see S/PV.6849). We commend the Government of Guatemala for that initiative.

On that occasion, Brazil and many other States parties to the ICC had the opportunity to elaborate on the role the Court plays in fostering international criminal accountability and sustainable peace. Brazil defended the idea that when the Security Council decides to pursue the referral track, based upon article 13 (b) of the Rome Statute, it must do so rigorously and consistently, following a principled and coherent approach, thereby avoiding the risks of double standards and selectivity. Also importantly, Brazil reiterated its commitment to the integrity of the Rome Statute and its firm opposition to any form of exemption of certain categories of individuals from the jurisdiction of the ICC.

At a time when the States parties are negotiating the budget that will be approved by the upcoming Assembly, we would like to recall the very important issue of the financial burden of decisions of the Security Council to refer situations to the International Criminal Court. Security Council referrals may entail formidable expenses to the ICC, and such financial responsibility should be borne by the international community as a whole with funds provided by the United Nations, subject to the approval of the General Assembly.

In its 10 years of existence, the ICC has already demonstrated its importance in furthering justice and in contributing to world peace. Brazil takes this opportunity to express once again our full support to the International Criminal Court and our appreciation to President Song.

Mr. De Vega (Philippines): The Philippines thanks President San-Hyun Song and his team at The Hague for their comprehensive report on the work of the International Criminal Court in the past year (A/67/308).

We join this debate to affirm the commitment of the Philippine Government and the Filipino people to fighting impunity anywhere in the word. For us, genuine global peace cannot be possible if it is not anchored in the principles underlying international criminal justice. As long as there is impunity, the international community will always condemn the most serious crimes of concern to the international community in the strongest terms possible. The international community will ensure that the perpetrators account for their crimes. By so doing, the international community will affirm that there will be no peace without justice, not just for our generation but also for generations yet to come. For the greater part of human history, that was not even possible. But it is possible now because for the past decade we have had the International Criminal Court.

The current reporting period has been a milestone year for international law in general and international

criminal justice in particular. On 24 September, for the first time since international law created the United Nations 67 years ago, we finally devoted a High-level Meeting to the Rule of Law at the National and International Levels.

We adopted a Declaration (resolution 67/1) that recognizes that, across and beyond the United Nations system, we have the institutions, the working methods and the relationships to make the rule of law relevant to peace and security, human rights and development.

One of those institutions is none other than the Court. In paragraph 23 of the Declaration, we recognize its role in a multilateral system that aims to end impunity and establish the rule of law. Our goal is universality. In the current reporting period, the Philippines became the 117th State party to the Rome Statute. We thank those countries that have commended and congratulated us and other countries for that decision. Now we join the call for many more countries, particularly from the Asia-Pacific region, similarly to ratify or accede to the Rome Statute.

Our ratification of the Rome Statute was the logical follow-up to the enactment in 2010 by the Philippine Congress of Republic Act No. 9851, also known as the Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity. The law incorporates many of the obligations of international humanitarian law and of the Rome Statute into the domestic law of the Philippines.

Also during this period, Ms. Miriam Defensor Santiago of the Philippines was elected as a judge of the Court. Her election brings women judges to a majority of 13 out of 24 judges. We reiterate our gratitude for the invaluable support of States parties to her candidacy. With Fatou Bensouda's election in June as Chief Prosecutor, the Philippines is confident that international criminal justice will be safer in women's hands.

Perhaps more important to note is the first judgment and sentence handed down by the Court. On 14 March, after a three-year trial, Thomas Lubanga was found guilty of war crimes, specifically for the recruitment of child soldiers, as specified by President Sang-Hyun Song. Thus, those who have committed or are thinking of committing genocide, crimes against humanity or war crimes should take heed. Crime does not pay. There is nowhere to hide. Sooner or later, offenders will answer to the law. If national courts cannot try them, the International Criminal Court will be ready for them.

We pay close attention to developments in the other judicial proceedings in six situations, investigations in seven situations and preliminary examinations in nine countries.

As we know only too well, the work of justice is never easy. With respect to the Court, we are relieved that the four members of its staff were able to safely depart from their mission in Libya. For the international community as a whole, justice can be particularly difficult in countries devastated by the cycle of violence and conflict, whether sectarian or otherwise. National jurisdiction is the first defence and the first bulwark against criminal impunity. The Court, the United Nations and the international community should help these countries to build their domestic capacities, including through such technical assistance as the training of judges, prosecutors, the police and the military.

Human resource development is essential to devising country-specific systems for the protection of citizens and their human rights. At the same time, States parties must ensure that our respective criminal justice systems are transparent, fair, effective and relatively speedy, allowing for the prosecution of the crimes contemplated by the Rome Statute.

To conclude, in anticipation of the eleventh Assembly of States Parties to the Rome Statute scheduled for later this month in The Hague, we call on all United Nations States Members, all States parties and even those that are not yet States parties to sustain the momentum of this milestone year for international criminal justice by supporting the work of the Court through adequate resources, including moral, political, diplomatic and, most of all, financial resources.

Mr. Osman (Sudan) (*spoke in Arabic*): All of us respect international justice and give it high priority. It is indispensable to our efforts to establish international peace and security. The United Nations was established for that very reason. However, and regrettably, we find that the Organization, which we hope will establish and enforce international justice and spare the whole of humankind the scourge of war, is limited in its ability to even condemn aggression. That is the greatest crime condemned by the Charter of the United Nations.

In this context, I regret to say that my country was subjected to a treacherous act of aggression on 24 October by the Zionist entity. The Israeli air force attacked a military plant producing conventional arms and ammunition in my country. The treacherous attack destroyed the military plant, killed a number of innocent people, and demolished a number of houses in the area surrounding the factory. It led to huge material loss, in addition to the senseless loss of innocent human life.

We have heard no words spoken about those events in this international Organization. Today in the General Assembly, one of its principal organs, we have heard no condemnation of that act of aggression, even though it has been condemned by a large number of regional organizations and political groups. What kind of international justice are we talking about? The United Nations is unable to condemn aggression.

Moreover, new entities have failed to prove their credibility in the service of international justice. They have objected to the noble concept of international justice and set it aside, relegating it to the intricacies of politics. The best example of that is the International Criminal Court (ICC). In our opinion, it was born handicapped because it mixed that noble concept with the complexities of politics and politicized international justice.

My delegation has read the report of the ICC covering the activities of the Court during the period from August 2011 to July 2012 (A/67/308), which was submitted to the General Assembly on the basis of the Relatic ıship Agreement between the United Nations and the ICC. It actually provides nothing new. On the contrary, it clearly indicates the increasing deviation of the Court from the goal of its work and shows it being affected by political considerations.

Therefore, the countries that participated in the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court in order to reach an understanding on the concept of impunity and the maintenance of justice have reservations concerning the ICC's approach to implementing its Statute and discharging its mandate.

The relationship between the Security Council and the ICC is subject to many doubts and caveats, which took shape at the time of the 1998 Conference in Rome. This was clearly expressed in the statement by the Arab Group and has been reiterated since then. At the time Security Council resolution 1593 (2005) was being deliberated, some members of the Council expressed divergent views on the relationship between the ICC and the Council. This is shown by the report of the ICC before the Assembly in its attempt to explain the Court's failure to discharge its task in Palestine and in illogical claims cloaked in laws and regulations.

The references in paragraph 90 of the report lead us to caution against the politicization of the Relationship Agreement between the United Nations and the ICC, as well as any effort to turn the United Nations and its missions and peacekeeping operations into instruments in the hands of certain influential Powers and into a secretariat for the Office of the Prosecutor and its policies, which are not approved by the international community. We stress that the specialized work of the United Nations, which is based on the will of its Members and on international or bilateral agreements with individual countries, should be the sole responsibility of the Organization and its Members. Any other arrangement runs counter to the terms of reference agreed upon between the United Nations and its Members, especially insofar as peacekeeping operations are concerned.

The references in paragraph 95 of the report to the detention of four staff members of the Court in Zintan, Libya, by the competent authorities are yet further proof of the failure of the Court to respect the sovereignty of States. They even indicate a clear violation of the national laws of countries.

It is clearly evident from what we have stated that the Relationship Agreement between the ICC and the United Nations is defective. In the framework of the reform of the international Organization in general, and of the Security Council in particular, we call for a review of that Agreement.

The delegation of the Sudan would like to express its full and firm confidence that peace-loving countries, guided by the true values of justice, freedom and equality, will not allow justice to be politicized in this way or the Court to be diverted from the purpose for which it was established. We are solidly confident that the majority of Member States, including the parties to the Rome Statute, fully realize the justness and soundness of the Sudan's position. This is obvious from the support given to the Sudan by the geographical and political groups to which it belongs. We are confident that the conscience of peoples is truly aware of the hegemony of influential States over the Court and its

targeting of African leaders and the African continent in a manner that recalls the loathsome imperialism of all, given that most of those tried by the Court are from Africa. At the same time, the Court is unable to deal with many of the crimes committed in Palestine, Iraq, Afghanistan and many other places around the world.

In conclusion, the just nature of the Sudanese judiciary is a guarantee of justice. The Sudanese judiciary has long historical experience beyond our borders, and we are therefore more than capable and qualified to ensure justice in my country, a task for which we have sole responsibility.

The Acting President: We have heard the last speaker in the debate on this agenda item for this meeting.

Programme of work

The Acting President: I would like to consult members regarding an extension of the work of the First Committee. Members will recall that, at its 2nd plenary meeting, on 21 September, the General Assembly approved the recommendation of the General Committee that the First Committee would complete its work by Wednesday, 7 November 2012. However, I have been informed by the Chair of the First Committee that the Committee requests an extension of its work to Friday, 9 November, in view of the significant impact of Hurricane Sandy on the work of the Committee.

May I therefore take it that the General Assembly agrees to extend the work of the First Committee until Friday, 9 November?

It was so decided.

The meeting rose at 1 p.m.